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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2015

CORAM :

THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

Writ Petition (MD) No.22923 of 2015

Maripandian

... Petitioner

Vs.

1.The Commissioner,
HR & CE Department,
No.119, Nungambakkam Highways,
Chennai 34.

2.The Joint Commissioner,
HR & CE Department,
Tirunelveli District,
Tirunelveli.

3.The Inspector,
HR & CE Department,
A/m.Muppidathiamman Thirukoil,
Kadayanallur Taluk,
Tirunelveli District.

4.The Executive Officer,
HR & CE Department,
A/m.Muppidathiamman Thirukoil,
Kadayanallur Taluk,
Tirunelveli District.

... Respondents

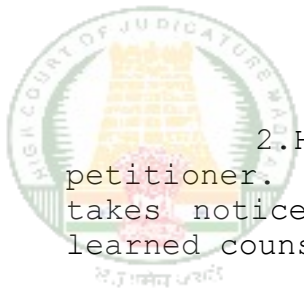
Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to consider the representation of the petitioner, dated 03.11.2015 regarding the construction of shops by the contributors/others in A/m.Muppidathiamman Thirukoil, Kadayanallur Taluk, Tirunelveli District, within a time frame fixed by this Court.

For Petitioner		: Mr.J.C.Rathinavel Pandian
For Respondents	1-3	: Mr.V.R.Shanmuganathan, Special Government Pleader.
For 4 th Respondent		: Mr.Mayilvahana Rajendran

ORDER

(Order of the Court was made by **V.RAMASUBRAMANIAN, J.**)

The petitioner has come up with the above writ petition purportedly in public interest, seeking a mandamus to direct the respondents to consider his representation regarding the construction of shops in a land belonging to the temple.



2. Heard Mr.J.C.Rathinavel Pandian, learned counsel for the petitioner. Mr.V.R.Shanmuganathan, learned Special Government Pleader takes notice for the respondents 1 to 3 and Mr.Mayilvahanarajendran, learned counsel takes notice for the 4th respondent.

3. The case of the petitioner is that in a land for which the temple has title they are trying to construct shops for the purpose of letting them out to third parties and augmenting the resources of the temple. According to the petitioner, the temple should not exercise their property rights since the construction of shops may lead to communal tension and that the place for people to worship will get shrunk.

4. We do not agree. At the outset, no owner of the property can be enjoined by a Court from enjoying their property rights. Moreover, the temple had already put up shops and had let them out to third parties. The third party lessees, under the guise of renovating the shops appear to have demolished and started a construction. When this was prevented, the lessees have come up with writ petitions in W.P(MD)Nos.20069 to 20071 of 2015. A learned single Judge has ordered notice and granted an interim order.

5. Therefore, it is clear that when the shops were already in existence and the petitioner kept quiet, he cannot now come up with a prayer after the demolition that there should be no construction. Therefore, the writ petition lacks merits and hence, it is dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Madurai Bench of Madras High Court, Madurai.

To

1. The Commissioner, HR & CE Department,

No.119, Nungambakkam Highways, Chennai 34.

2. The Joint Commissioner, HR & CE Department, Tirunelveli District,
Tirunelveli.

3. The Inspector, HR & CE Department, A/m.Muppidathiamman Thirukoil,
Kadayanallur Taluk, Tirunelveli District.

4. The Executive Officer, HR & CE Department,
A/m.Muppidathiamman Thirukoil, Kadayanallur Taluk,
Tirunelveli District.

+1cc to M/S.J.C.Rathnavel Pandian, Advocate in SR.No. 15483

+1cc to M/S.C.Mayil Vahana Rajendran, Advocate in SR.No. 72649

+1cc to Special Government Pleader in SR.No. 75877

TS/18.01.2016/2P-8C/ AAL-MPA

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